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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,285	03/29/2004	Theodore R. Arneson	CS23014RL	2278

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EXAMINER

CAI, WAYNE HUU

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/812,285	Applicant(s) ARNESON ET AL.	
	Examiner Wayne Cai	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 14-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 14-19 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata (US 2001/0023197) in view of Noro (EP 1222971, Note: Applicant's cited reference).

**Regarding claim 14**, Shibata discloses a handheld audio device comprising (i.e., a radio communication device):

a housing (fig. 1, casing 10), said housing holding:

a controller (fig. 2, control unit 140);

at least one memory storing a control program for operating the handheld audio device (fig. 2, memory 80), said at least one memory (memory 80) coupled to the controller (control unit 140);

an audio system (receiver 50 & microphone 40) coupled to the controller (control unit 140);

an ambulation system (vibrator 90 & vibration drive circuit 131) comprising:  
an electromechanical ambulation mechanism (vibrator 90) having a foot for making contact with an external surface on which the handheld audio device is placed (casing 10 of fig. 1);

The Examiner respectfully notes that the "casing 10" is considered as a "foot" as claimed because of two reasons:

Firstly, the ambulation system (i.e., vibrator 90 and vibration drive circuit 131) is disposed within the casing 10 as known in the art. In addition, the casing itself is a part of the handheld audio device that making contact with an external surface on which the handheld audio device is placed.

Secondly, in accordance with the American Heritage College Dictionary a "foot" is defined as *1. the lower extremity of the vertebrate leg that is in direct contact with the ground in standing or walking. 2. the lowest part or the bottom.*

Therefore, it would have been obvious to one skilled in the art that the ambulation system has the casing 10 of the handheld audio device as a foot because the casing 10 supports the ambulation system located above or within the casing 10.

Shibata further teaches or suggests:

a first drive circuit (vibration drive circuit 131) coupled to the electromechanical ambulation mechanism (vibrator 90), and coupled to the controller (control unit 140).

Although, Shibata discloses all the limitations within claim; however, Shibata does not specifically teach or suggest wherein the controller is programmed to drive the ambulation system in response to audio processed by the audio system.

In a similar endeavor, Noro discloses a device for driving vibration source. Noro further discloses wherein the controller is programmed to drive the ambulation system in response to audio processed by the audio system (paragraphs 0028 & 0029).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shibata with Noro.

The motivation/suggestion for doing so would have been to entertain user when notifying the incoming call with the vibration and the sound corresponding to the melody of the musical tune.

**Regarding claim 15**, Shibata and Noro disclose the handheld audio device according to claim 14. Shibata also discloses wherein: said audio system comprises a loudspeaker (receiver 50), and a second drive circuit coupled to the loudspeaker (signal processor 60 coupled to receiver 50).

**Regarding claim 16**, Shibata and Noro disclose the handheld audio device according to claim 14. Noro also discloses wherein: the controller is programmed to digitally process digital audio to obtain processed audio and drive the ambulation system according to the processed audio (paragraphs 0047-0050).

**Regarding claim 17**, Shibata and Noro teach the handheld audio device according to claim 16. Noro further teaches wherein: the controller is programmed to process digital music with a beat detection algorithm (detection circuit 18), in order to detect one or more beats (i.e., rhythm sounds), and operate the ambulation system so as to change a movement of the handheld audio device in response to the one or more

beats (i.e., generating vibration in synchronization with the rhythm sounds). See paragraphs 0028-0029.

**Regarding claim 18**, Shibata and Noro disclose the handheld audio device according to claim 14. Shibata also discloses wherein: said audio system comprises a microphone (microphone 40); and wherein the controller is programmed by the control program to: process input audio signals (signal processor 60) received from the microphone (microphone 40) to obtain processed audio; and operate the electromechanical ambulation mechanism (vibrator 90) according to the processed audio (paragraphs 0024 & 0030).

**Regarding claim 19**, Shibata and Noro discloses the handheld audio device according to claim 18. Noro also discloses wherein: the controller is programmed to process input audio signals received from the microphone with a beat detection algorithm to detect one or more beats and operate the electromechanical ambulation mechanism to change a movement of the handheld audio device in response to the one or more beats (paragraphs 0028-0030).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Cai whose telephone number is (571) 272-7798. The examiner can normally be reached on Monday-Friday; 9:00-6:00; alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Wayne Cai  
Examiner  
Art Unit 2617

  
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